

### **REMARKS/ARGUMENTS**

This Amendment responds to the Office Action July 17, 2008, in which the Examiner rejected claims 47-65 under 35 U.S.C. § 103.

Attached to this amendment is a corrected PTO 1449 to correct the publication number for the references cited in the Information Disclosure Statement filed May 14, 2008. In particular a zero was inadvertently omitted from each U.S. Publication Notice. Applicant respectfully requests to Examiner considers the references.

Attached to this amendment is FIG. 6. Applicant respectfully notes that the Specification in paragraphs [0018] and [0061] – [0062] describe steps found in FIG. 6. However, a review of the U.S.P.T.O. electronic file indicates that FIG. 6 was absent. Therefore, FIG. 6 is being submitted to correct this oversight. Applicant respectfully submits that no new matter has been added. Therefore, Applicant respectfully requests the Examiner allows Figure 6.

As indicated above, claim 65 has been amended to correct a typographical error. Applicant respectfully requests the Examiner approves the correction.

As indicated above, claims 47, 53, 57, 61 and 63 have been amended in order to make explicit what is implicit in the claims. The amendment is unrelated to a statutory requirement for patentability.

Claims 47, 53 and 61 claim a method of transferring requested media data over a network, claim 53 claims a method of receiving media data and claim 63 claims a method of remotely determining a media player configuration of a device. The methods include receiving a request for a detection code from a client device, sending the detection code to the client device, detecting media player information, storing the media player information in one or more cookies, verifying the cookies have valid settings, sending an acknowledgement indicating the cookies are

sufficient to format the requested media data and fetching the requested media data including sending the cookies with the fetch request. Claim 57 also includes downloading a webpage containing server contact code, and executing the server contact code prior to receiving a request for a detection code for a client device.

By receiving/sending a request for a detection code from for a client device as claimed in claims 47, 53, 57, 61 and 63, the claimed invention has the media content formatted according to the configuration information which is compatible with a client's configuration. The prior art does not show, teach or suggest a client device sending a request for a detection code as claimed in claims 47, 53, 57, 61, and 63.

Claims 47-65 were rejected under 35 U.S.C. § 103 as being unpatentable over *Hegde, et al.* (U.S. Patent No. 6,925,495) in view of *Doty, Jr.* (U.S. Patent No. 6,795,863), and further in view of *Florschuetz* (U.S. Patent No. 6,601,009).

*Hegde, et al.* appears to disclose a requesting device 510 request content from a CDN (content delivery network). The content request may be for any type of content available from CDN 520 or original server 530. The content request is for content associated with an adlet playlist. For example, the content may be cliplets. CDN 520 receives the content request and attempts to assemble the content based on instructions from original server 530. When the requested content is available, CDN 520 delivers the requested content to the requesting device 510 (Col. 9, line 11-21). Basic operating attributes inquiring system 600 determines the requesting device's basic configuration including the operation system, browser and media player used by the requesting device. Server 605 communicates with the requesting device and receives basic configuration information in return (Col. 10, lines 1-6).

Thus, *Hegde, et al.* merely discloses a requesting device 510 requesting content for an adlet playlist from CDN 520. Nothing in *Hegde, et al.* shows, teaches or suggests receiving a request for a detection code from a client device as claimed in claims 47, 53, 57, 61 and 63. Rather, *Hegde, et al.* only discloses a requesting device 510 requesting content for an adlet playlist from a CDN 520.

Furthermore, since *Hegde, et al.* only discloses requesting device 510 requesting content from a CDN 520, nothing in *Hegde, et al.* shows, teaches or suggests (a) downloading a webpage, containing a server contact code, by a client device and (b) executing the server contact code at the client device prior to receiving (sending) a request for a detection code from the client device as claimed in claim 57.

*Doty, Jr.* appears to disclose a smart server 21 that tests user's bandwidth at the time of request to ensure an optimum bit-stream is served to the end users utilizing the maximum available bandwidth (Col. 7, lines 1-4). The very first detection that is performed determines if the user has the correct plug-ins to be able to view the site. The smart pages first determine which browser is being used to determine whether or not the plug-ins are present. If the plug-ins are missing, the user is then sent to a smart download page (Col. 7, lines 8-14). If the plug-ins are available, the user is sent a short streaming media file to determine if they are able to receive multicast signals. At this point, a cookie is set recording user settings up to this point (Col. 7, lines 12-20). At the bandwidth detection page, a fixed size of data is sent down to the user and the time it takes to download is recorded (Col. 7, lines 22-24). Simultaneously, the encoding computers 28a – 28f transmit a digitized, compressed, and encoded video signal to the live multicast transaction system 18 (Col. 7, lines 34-37).

Thus, *Doty, Jr.* merely discloses a smart server testing a bandwidth of a user. Nothing in *Doty, Jr.* shows, teaches or suggests receiving a request for a detection code from a client device as claimed in claims 47, 53, 57, 61 and 63. Rather, *Doty, Jr.* only discloses a smart server that tests the user's bandwidth at the time of a request for the streaming media.

Additionally, since *Doty, Jr.* only discloses a smart server testing a user's bandwidth after receiving a request for streaming media, nothing in *Doty, Jr.* shows, teaches or suggests (a) downloading a webpage containing a server contact code, by a client device and (b) executing the server contact code at the client device prior to receiving (sending) a request for a detection code from the client device as claimed in claim 57.

*Florschuetz* appears to disclose website distributing streaming media content may wait to send streaming media data until the user has indicated the bandwidth of their internet connection (Col. 3, lines 14-16).

Thus, *Florschuetz* merely discloses a user indicating the bandwidth prior to the sending of the streaming media data. Nothing in *Florschuetz* shows, teaches or suggests receiving a request for a detection code from a client device as claimed in claims 47, 53, 57, 61 and 63. Rather, *Florschuetz* only discloses waiting until the user indicates the bandwidth prior to sending the streaming media data.

Furthermore, since *Florschuetz* only discloses waiting to send streaming media data until the user indicates the bandwidth of their Internet connection, nothing in *Florschuetz* shows, teaches or suggests (a) downloading a webpage containing a server contact code, by a client device and (b) executing the server contact code at the client device prior to receiving (sending) a request for a detection code from the client device as claimed in claim 57.

A combination of *Hegde, et al.*, *Doty, Jr.* and *Florschuetz* would merely suggest that once the requesting device 510 requests content for an adlet playlist such as cliplets from CDN 520 in *Hegde, et al.*, using the smart server 21 of *Doty, Jr.* to test the user's bandwidth and waiting for the user to indicate the bandwidth prior to sending streaming media as taught by *Florschuetz*. Thus, nothing in the combination of the references shows, teaches or suggests (a) receiving a request for a detection code from a client device as claimed in claims 47, 53, 57, 61 and 63, or (b) downloading a webpage, containing a server contact code by a client device and executing the server code at the client device as claimed in claim 57. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 47, 53, 57, 61 and 63 under 35 U.S.C. § 103.

Claims 48-52, 54-56, 58-60, 62 and 64-65 depend from claims 47, 53, 57, 61 and 63 and recite additional features. Applicant respectfully submits that claims 48-52, 54-56, 58-60, 62 and 64-65 would not have been obvious within the meaning of 35 U.S.C. § 103 over *Hegde, et al.*, *Doty, Jr.* and *Florschuetz*, at least for the reasons as set forth above. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 48-52, 54-56, 58-60, 62 and 64-65 under 35 U.S.C. § 103.

Thus, it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested. Should the Examiner find that the application is not now in condition for allowance, Applicant respectfully requests the Examiner enters this amendment for purposes of appeal.

**CONCLUSION**

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicant respectfully petitions for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

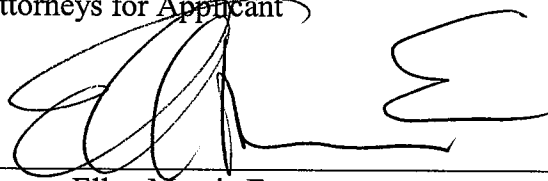
In the event that any additional fees are due with this paper, please charge our Deposit Account No. 50-0320.

Respectfully submitted,

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Date: September 16, 2008

By: \_\_\_\_\_



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